

## Fed. Mine Safety and Health Review Commission

## § 2700.78

(b) *Additional briefs.* No further briefs shall be filed except by leave of the Commission.

(c) *Length of brief.* Except by permission of the Commission and for good cause shown, opening and response briefs shall not exceed 35 pages, and reply briefs shall not exceed 15 pages. A brief of an amicus curiae shall not exceed 25 pages. A brief of an intervenor shall not exceed the page limitation applicable to the party whose position it supports in affirming or reversing the Judge, or if a different position is taken, such brief shall not exceed 25 pages. Tables of contents or authorities shall not be counted against the length of a brief.

(d) *Motion for extension of time.* A motion for an extension of time to file a brief shall comply with §2700.9. The Commission may decline to accept a brief that is not timely filed.

(e) *Consequences of petitioner's failure to file brief.* If a petitioner fails to timely file a brief or to designate the petition as his brief, the direction for review may be vacated.

(f) *Motion for leave to exceed page limit.* A motion requesting leave to exceed the page limit for a brief shall be received not less than 3 days prior to the date the brief is due to be filed, shall state the total number of pages proposed, and shall comply with §2700.10. A motion requesting an extension of page limit and a statement in opposition to such a motion may be filed and served by facsimile. Filing of a motion requesting an extension of page limit, including a facsimile transmission, is effective upon receipt. The motion and any statement in opposition shall include proof of service on all parties by a means of delivery no less expeditious than that used for filing the motion, except that if service by facsimile transmission is impossible, the filing party shall serve by a third-party commercial overnight delivery service or by personal delivery.

(g) *Number of copies.* As provided in §2700.5(e), each party shall file seven copies of its brief. If the filing party is not represented by a lawyer or other

representative, one copy shall be sufficient.

[58 FR 12164, Mar. 3, 1993, as amended at 64 FR 48714, Sept. 8, 1999]

### § 2700.76 Interlocutory review.

(a) *Procedure.* Interlocutory review by the Commission shall not be a matter of right but of the sound discretion of the Commission. Procedures governing petitions for review of temporary reinstatement orders are found at §2700.45(f).

(b) *Petitions for interlocutory review.* Where the Judge denies a party's motion for certification of an interlocutory ruling and the party seeks interlocutory review, a petition for interlocutory review shall be in writing and shall not exceed 15 pages. A copy of the Judge's interlocutory ruling sought to be reviewed and of the Judge's order denying the petitioner's motion for certification shall be attached to the petition.

(c) *Briefs.* When the Commission grants interlocutory review, the parties shall file briefs not to exceed 25 pages within 20 days of the order granting interlocutory review unless otherwise ordered by the Commission.

(d) *Scope of review.* Unless otherwise specified in the Commission's order granting interlocutory review, review shall be confined to the issues raised in the Judge's certification or to the issues raised in the petition for interlocutory review.

[58 FR 12164, Mar. 3, 1993, as amended at 64 FR 48714, Sept. 8, 1999]

### § 2700.77 Oral argument.

Oral argument may be ordered by the Commission on its own motion or on the motion of a party. A party requesting oral argument shall do so by separate motion no later than the time that it files its opening or response brief.

### § 2700.78 Reconsideration.

(a) A petition for reconsideration must be filed with the Commission within 10 days after a decision or order of the Commission. Any response must be filed with the Commission within 10 days of service of the petition.